

**Board for Judicial Administration
Meeting Minutes**

**July 18, 2008
AOC SeaTac Office
SeaTac, Washington**

Members Present: Chief Justice Gerry Alexander, Chair; Judge Vickie Churchill, Member-Chair; Judge Rebecca Baker; Mr. Stan Bastian; Judge C. C. Bridgewater; Judge Ron Culpepper; Judge Sara Derr; Judge Susan Dubuisson; Judge Deborah Fleck; Judge Tari Eitzen; Judge Mark Lambo; Justice Barbara Madsen; Judge Marilyn Paja; Judge Glenn Phillips; and Judge Christine Quinn-Brintnall

Guests Present: Ms. Roni Booth, Ms. Betty Gould, Ms. Marti Maxwell, Ms. Barb Miner, and Ms. Nancy Scott

Staff Present: Ms. Ashley DeMoss, Ms. Beth Flynn, Mr. Dirk Marler, Ms. Mellani McAleenan, Ms. Regina McDougall and Mr. Chris Ruhl

Call to Order

Chief Justice Alexander called the meeting to order and introduced the representatives from the Washington State Association of County Clerks: Ms. Miner, King County; Ms. Booth, Cowlitz County; Ms. Gould, Thurston County; and Ms. Nancy Scott, Skagit County.

June 20, 2008 Meeting Minutes

It was moved by Judge Derr and seconded by Judge Dubuisson to approve the June 20, 2008 BJA meeting minutes.

The following correction was noted by Judge Paja: **On Page 5, second paragraph, delete the word “not.”**

Judge Quinn-Brintnall requested that on Page 7, the first sentence in the second to last paragraph be corrected as follows:

“There is also an internal desire to have a timeline of two months between the filing of a case and the completion of the last brief and the oral argument.”

The motion, with corrections noted, carried.

Trial Court Operations Funding Committee Report

Mr. Marler explained that most of the information included in the meeting materials is the same information that was included in last month's meeting materials: a juror pay proposal, state funding of district and municipal court judges proposal, and an interpreter funding proposal. Last month there were questions raised regarding the juror component. In particular, there was concern surrounding tying the daily amount to hourly wages which could bring up "employee" issues for jurors. The Trial Court Operations Funding Committee met and decided to roll up the minimum wage hourly rate into a \$65 daily fee which is roughly equal to minimum wage for an eight hour day, and then tie future rates to the consumer price index used to adjust the minimum wage rate.

Chief Justice Alexander asked why the wording in the juror pay proposal did not state the first day would be at a rate of \$10 and Mr. Marler explained that the Committee did not want to restrict the cities or counties from a higher pay option.

It was moved by Judge Baker and seconded by Judge Derr to approve the recommendations from the Trial Court Operations Funding Committee. The motion carried.

Revision to General Rule 29(k) Judicial Services Contracts

Judge Paja stated that this item was discussed during the June BJA meeting. The proposed amendment of GR 29(k) makes clear that contracts for judicial services are for salary and benefits only.

It was moved by Judge Dubuisson and seconded by Judge Fleck to recommend to the Supreme Court the revision to General Rule 29(k) Judicial Services Contracts. The motion carried.

BJA Long-Range Strategic Plan

Judge Churchill reminded the meeting participants that the BJA Long-Range Strategic Plan was discussed during the June BJA meeting. She stated that the Long-Range Planning group reviewed the entire Long-Range Strategic Plan and developed several revisions. Judge Churchill explained the changes contained in the revised Long-Range Strategic Plan.

Judge Quinn-Brintnall asked if the deletion of task #1 on Page 14 was because it has been completed or because it was not within the Best Practices Committee's scope of work. Justice Madsen replied that it was explored by AOC staff and found to be not doable.

It was moved by Judge Paja and seconded by Judge Fleck to approve the BJA Long-Range Strategic Plan. The motion carried.

Report for the Washington State Association of County Clerks (WSACC)

Chief Justice Alexander shared that one purpose of this meeting is to receive a report from the Washington State Association of County Clerks which is a very active group.

Ms. Miner thanked the BJA and Chief Justice Alexander for including the clerks in the meeting. Most of the members of the WSACC Executive Board were in attendance. Ms. Miner explained that Ms. Gould, the WSACC Legislative Chair, would present the Legislative Plan for the upcoming session.

WSACC Legislative Plans for 2009: Ms. Gould stated that everyone is trying to find a way to do more with less.

Electronic Signatures: One thing that is cumbersome is the jury summons. Requiring that it be filled out, signed and returned is cumbersome and costly. The WSACC would like to put the questionnaire online but signature requirements need to be revised in order to make that possible. The WSACC envisions the summons still being mailed to jurors but they would have the opportunity to respond to the questionnaire via e-mail. They are looking to facilitate those who are interested in responding online to put in some sort of equivalent of a signature.

Ms. McAleenan stated that the electronic signature language is based on the real property recording act which passed last session. She thought it made a lot of sense to make this a BJA proposal because it affects all court levels. This legislative request will also tie into the proposed juror pay legislation. This would ultimately need the support of the BJA.

Increase in Legal Financial Obligation (LFO) Budget: Ms. Gould commented that the WSACC submitted legislation last year requesting additional funding for LFO collections. The legislation did not pass and the WSACC plans to submit similar legislation this session. The Supreme Court is including this request in their budget and Ms. Miner thanked the Supreme Court for the inclusion.

Other Legislation: Ms. Gould explained that the WSACC is looking at a clean-up bill regarding fees and they are working with the Washington Association of County Officials (WACO) on that.

Proposed GR 34/Waiver of Fees: Ms. Miner reported that the WSACC is working closely with the Superior Court Judges' Association (SCJA) on GR 34 which is a proposal put forward by the Washington State Bar Association (WSBA) for waiving fees. Ms. Miner explained that the WSBA's proposed rule allows a different standard for

waiver of fees. The clerks have always depended on the RCW regarding indigency standards and the proposed rule differs. Also, the rule added eight to ten additional fees that could be waived by order. One of the versions required the clerk to automatically waive fees without a judge's order. The SCJA opposed it because it took away judicial discretion.

The WSACC made multiple comments regarding their concerns with the proposed rule. They are working with the SCJA and the Access to Justice Board (ATJ) to put together a different version of the proposal.

Mr. Bastian stated that the WSBA approved the rule change and forwarded it to the Supreme Court where it received many comments. Because of that, the rule change has been put on hold. Mr. Bastian stated he would find out if someone from the WSBA could assist with negotiations, if that would be helpful.

ELC 7.1(b): Enforcement of Lawyer Conduct 7.1(b) – A few months ago, Mr. Doug Ende, from the WSBA, brought to the attention of the WSACC that there is a rule that puts trial court clerks into the hot seat. Clerks are supposed to notify the WSBA when a lawyer has been convicted of a crime. Most of the clerks were not aware of this rule and there is no mechanism in place for clerks to know that a convicted defendant is an attorney. Mr. Ende came to the WSACC Board meeting to discuss whether this rule is workable as currently written or needs to be changed. The WSACC members believe Bar members should self-report or the responsibility should be given to prosecutors. Mr. Ende reported that there will be a task force put together shortly to work on the ELCs and this issue will be addressed then.

Judge Paja stated if this applies to all levels of court, the District and Municipal Court Judges' Association (DMCJA) would like to be involved.

Judge Bridgewater thinks a member of the Washington Association of Prosecuting Attorneys (WAPA) should be involved as well.

Mr. Bastian said that Mr. Geoff Gibbs will chair the WSBA task force and it will most likely take several years before changes are made.

Council of State Governments Interbranch Summit

Ms. McAleenan reported on the Council of State Governments Interbranch Summit, which was held June 22-24 in Bismark, North Dakota. This summit marked the first time the Council of State Governments included members of the judicial branch in one of their conferences. Ms. McAleenan was the only participant from Washington. It was really helpful for the legislators who attended the summit to hear from judges regarding why they are reluctant to participate in legislative issues. Their answers were a surprise to the legislators—they thought the judicial branch was just disengaged. Ms. Mary

McQueen gave a presentation on Washington's Salary Commission. In many ways, Washington is ahead of the game compared to other states. Some examples are the Salary Commission and many states do not have a State of the Judiciary address or orientation for legislators. Ms. McAleenan is currently working on an advocacy guide for judges and legislators.

One legislator commented that it would be good to give a presentation during a work session at the judiciary hearings giving a basic overview of what courts do at each court level, etc. Another thing that was suggested are regional meetings in a social atmosphere. We have legislative dinners which encourage judges to meet with local legislators. Judges could also meet legislators during local town hall meetings. There are many ways for judges to connect with legislators in a more social way so they can build relationships.

It was also suggested that legislators be included on commissions and task forces in the future. We do that with some commissions but not with most of the committees. Another idea was quarterly meetings with leadership. The Chief Justice and State Court Administrator should meet with legislative leadership, the Governor, etc. to keep each other abreast of what is going on in the respective branches.

Court Tours for Legislators

Ms. McAleenan gave a quick overview of Court Tours for Legislators. Originally, Mr. Jeff Hall received the idea from California. Washington has not implemented it yet, but would like to get started on it soon. The idea is that judges would issue an invitation to their local legislators to come have coffee with the judge and attend court for the morning. There would be a debrief after the court session so legislators could ask questions. There are certain legislators to target specifically. Marketing is probably key and for certain districts Ms. McAleenan will assist more than others.

Ms. McAleenan stated that the idea is to send the Court Tours for Legislators document to all judges, along with the advocacy guide. Judges would then take the initiative to contact their legislators. BJA members were encouraged to review the materials and let Ms. McAleenan know if anything should be revised.

Judge Fleck suggested that Ms. McAleenan prepare a draft cover letter and run it by the association presidents and legislative committee chairs. Then she can finalize the tour materials and advocacy guide and send them out to all judges.

Mr. Bastian suggested inviting county and city council members in addition to the legislators.

Judge Culpepper stated that he tried this last year. He sent out 24 invitations and only three people responded. Only one of the three could attend so they canceled the tour.

Washington State Bar Association

Mr. Bastian understands there is still some uncertainty with the SCJA over the jurisdiction of authority in the disciplining of judges.

During their July meeting, the WSBA Board of Governors (BOG) will:

- Review their Bylaws and update them.
- Begin an annual review of committees and their plans.
- Continue the discussion on whether the WSBA should take a position on same sex marriage.
- Begin discussion on a resolution proposed by some Governors regarding immigration.

Three weeks ago the BOG met and decided to give Chief Justice Alexander the 2008 Award of Merit. It is the highest award given by the WSBA and recognizes long-term service to the WSBA and/or the public. The award will be presented at the WSBA Annual Awards Dinner in Seattle on September 18.

Reports from Courts

Supreme Court: Justice Madsen shared that the Supreme Court just finished their spring term. They are now on hiatus and writing opinions. They are working on decreasing the backlog in the Commissioner's Office and they expect to be caught up by September. Chief Justice Alexander reported that last year there were 303 petitions for review and this year there are over 500 so far. The backlog of petitions should be to an acceptable level by the fall.

The Court is finalizing plans for a September trip to Washington State University (WSU). Justice Madsen encouraged anyone with ideas for future institution visitations to pass them along to Justice Tom Chambers.

Court of Appeals: Judge Bridgewater mentioned there was nothing new to report for the Court of Appeals.

Superior Courts: Judge Eitzen shared that the SCJA Board has a serious concern that the WSBA has apparently taken the position that the WSBA Disciplinary Committee has jurisdiction to discipline sitting judges. Mr. Bastian mentioned that Mr. Ende wrote a letter to Ms. Reiko Callner of the Commission on Judicial Conduct and that letter went out the same day Judge Richard McDermott's letter did. Chief Justice Alexander stated he read the letter from Mr. Ende and he encouraged all the stakeholders to get together and work on the issue.

The SCJA has been working on the following:

- Making committee appointments and trying to get more judges involved in committee work.
- Fine-tuning the SCJA five-year plan.
- Taking more of an active interest in the Sentencing Guidelines Commission.
- Putting together a standalone training project for family law that could be used in Judicial College and Spring Conference.
- Establishing a Family and Juvenile Court Improvement Committee which includes seven members.

Courts of Limited Jurisdiction: Judge Paja stated the DMCJA is working on committee appointments and have them pretty well under control. Sadly, many judges attended Judge Kip Stiliz's memorial service last week. He was a great guy and will be missed. Judge Dubuisson noted that 12 people are running for Judge Stiliz's position.

Administrative Office of the Courts (AOC)

Mr. Marler reported that AOC was fortunate to receive funding for an access coordinator. The position recruitment resulted in a great applicant pool and Judge Anne Ellington was involved in the final hiring process along with others from the Access to Justice community. AOC will be getting more information out to the court community in the next few weeks regarding Ms. Carol Maher, the new access coordinator. She comes from General Administration. Among the skills she brings with her is her ability to bring people together and facilitate resolutions to problems. She will attend future BJA meetings and will also attend various association meetings. AOC is putting together an informal advisory group she can consult with as needed.

A Regional Courts Ad Hoc Work Group has been assembled which includes representatives of the DMCJA and DMCMA. It is an informal ad hoc work group assisting in drafting legislation. The group will meet for the first time next week.

There being no further business, the meeting was adjourned.